77D328
Box 1.5938
Comm Treaty II
Italy

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October 30, 1947

F800002-1090

Commercial Treaty Negotiation

Telegrams and Airgrams Sent

1	2777	9/6	R
2	2863	9/20	R
3	2883	9/22	R
4	2908	9/23	R
5	2952	9/25	R
6	2961	9/26	R
7	3003	9/30	R
8	3033	10/1	R
9	3063	10/3	Cfl
10	3118	10/7	R
11	3142	10/9	R
12	3158	10/9	Cfl
13	3160	10/9	R
Airgram	A-1071	10/14	R
14	3245	10/15	R
15	3368	10/23	R
Airgram	A-1103	10/24	R
16	3403	10/26	R

This document released to public per JBlodgett CDC
10/23/79 7902989

DEPARTMENT OF STATE A/CDC/MR
REVIEWED BY A J Smith DATE 9/19/83
RPDS or ADDENDUM. DATE
EXCISION(S)
TS ADDN.
ENDORSEMENTS OR MARKINGS
DECLASSIFIED/RELEASABLE
RELEASE DENIED
PA or FOI EXEMPTIONS

Telegrams Received

1857	9/26	R	2175	10/24	R
1901	10/1	R	2176	10/24	R
1937	10/3	R			
1946	10/3	R			
1979	10/7	R			
2007	10/9	R			
2016	10/9	Cfl			
2017	10/9	R			
2053	10/13	R			
2091	10/16	R			
2153	10/23	Cfl			

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F800 0 02 4 Ltd St Italo-Amer. Commercial Treaty negotiation

Preamble — Agreed to.

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Article I

Paragraph 1. Agreed to, with deletion of words "subject to the provisions of paragraph 4 of this Article". See minutes of Oct. 22.

Paragraph 2. Agreed to. Provision relating to professions whose members are designated by law as public officers to be included in Protocol. See minutes of Oct. 6.

Paragraph 3. Agreed to. See minutes of Sept. 18.

Paragraph 4. Transfer of original draft of paragraph 4 to Article XXIV as Paragraph 7, and substitution of new draft of Paragraph 4 agreed to. See minutes of Oct. 22.

Article II — Agreed to. See minutes of Sept. 10.

Article III — Subject to further consideration as it relates to the treatment to be accorded in each country to the nationals and corporations of the other with regard to participation in banking activities. See minutes of Sept. 20, Oct. 17, and Oct. 22. Dearl mod 2245

Article IV — Agreed to. See minutes of Sept. 20.

Article V

Paragraph 1. Agreed to. See minutes of Sept. 20.

Paragraph 2. First sentence agreed to. See minutes of Sept. 20 and Oct. 2. Second sentence, dealing with withdrawal of compensation for expropriated property, subject to further consideration. See minutes of Sept. 20, 27, Oct. 2, and 6.

Paragraph 3. Agreed to. See minutes of Sept. 20.

Paragraph 4. Agreed to, with word 'interpreters' deleted. See minutes of Sept. 20, and Oct. 17.

Article VI — Agreed to. See minutes of Sept. 20.

Article VII

Paragraph 1. New version substituted for original draft, amended, and agreed to. See minutes of Sept. 20, Oct. 2, 6, and 21.

Paragraph 2. Subject to further consideration in so far as it provides for the withdrawal of proceeds of the sale of property to which there is a legal bar to inheritance. See minutes of Sept. 27.

Paragraph 3. Agreed to, with second sentence free and deleted. See minutes of Sept. 20.

Paragraph 4.

Article VII (cont'd)

Paragraph 4. Subject to further consideration for purpose of determining whether most-favored-nation treatment provision cannot be extended to cover immovables as well as movables. See minutes of Sept. 20 and Oct. 22. { Dealt with in 2345

Article VIII — Agreed to. See minutes of Sept. 23.

Article IX — Agreed to. See minutes of Sept. 23.

Article X — Agreed to. See minutes of Sept. 23.

Article XI

Paragraph 1. Agreed to, with words "or otherwise" deleted and words 'or public order' added at end. See minutes of

Paragraph 2. Agreed to. Provision to be added to Protocol regarding military secrets. See minutes of Sept. 23, and Oct. 17.

Paragraph 3. Agreed to. See minutes of Sept. 23.

Article XII — Existing text agreed to. See minutes of Sept. 23.

Article subject to further consideration for purpose of determining whether provisions cannot be added relating to social insurance. See minutes of Sept. 23 and Oct. 22.

Article XIII

Paragraph 1. Agreed to, with amendment to make clear that air service is covered, as well as land and naval service. See minutes of Sept. 23 and Oct. 17.

Agreed to said amendments.

Paragraph 2. ~~Subject to further consideration for purpose of determining~~ ~~paris tuto allowed aliens to choose nationality of mother~~ ~~with which Company to serve.~~ See minutes of Sept. 23, and Oct. 10, and 30.

Paragraph 3. Deletion of this paragraph agreed to. See minutes of Oct. 10.

Article XIV — Agreed to. See minutes of Sept. 25 and Oct. 10.

Article XV

Paragraph 1. Agreed to, with amendment referring to judicial decisions "that have general application". See minutes of Sept. 25 and Oct. 10.

Paragraph 2. Subject to further consideration for purpose of determining whether a provision cannot be added that privileges with respect to goods en route are accorded only on basis of reciprocity. See minutes of Sept. 25 and Oct. 10.

Paragraph 3. Agreed to. See minutes of Sept. 25.

Paragraph 4. Agreed to. See minutes of Sept. 25.

Article XVI

Article VI

Paragraph 1. Subject to further consideration with respect to the possible effect upon Italian laws and regulations relating to the distribution of imported articles. See minutes of Sept. 27. } Recall Nov 6

Paragraph 2. Agreed to. See minutes of Sept. 27.

Paragraph 3. Agreed to. See minutes of Sept. 27.

Article XVII — Agreed to. See minutes of Sept. 27, 1947.

Article XVIII — Agreed to, with new paragraph 3 substituted for that in original draft. See minutes of Sept. 27, Oct. 17, and 22.

Article XII — Agreed to. See minutes of Sept. 29.

Article XI — Agreed to. See minutes of Sept. 29.

Article XXI — Agreed to. See minutes of Sept. 29.

Article XVII

Paragraph 1. Agreed to. See minutes of Sept. 29.

Paragraph 2. Subject of most-favored-nation treatment for counting trade still under consideration. See minutes for Sept. 29 and Oct. 6. } Recall Nov

Article XVIII — Agreed to, with amendment to item (a) making provisions applicable only with respect to materials of a third country. See minutes of Sept. 29 and Oct. 17.

Article XIV

Paragraph 1. Agreed to, except that exact wording of a new subparagraph relating to protection of national artistic and historical treasures, and the interpretation of an amendment of subparagraph (c), providing for negotiations if National Monetary Fund should cease to exist, are still under consideration. See minutes of Sept. 27, Oct. 15, and 17, 22. } Recall with 22-47

Paragraph 2. Agreed to. See minutes of Sept. 29.

Paragraph 3. Agreed to, with sub-paragraph (d) amended to include State of Vatican City. See minutes of Sept. 29, Oct. 2, 17, 22, 30, and Final Building of the Package.

Paragraph 4. Agreed to. See minutes of Sept. 29.

Paragraph 5. Agreed to as amended. See minutes of Sept. 29.

Paragraph 6. Agreed to.

Paragraph 7. Agreed to. This is a new paragraph, being the original paragraph 4 of Article I. See minutes of Oct. 22.

Article XV — Agreed to. See minutes of Sept. 29.

Article XVI — Agreed to. See minutes of Sept. 29.

Article XVII — Deletion agreed to. See minutes of Oct. 17.

Article XVIII — Agreed to. Re-numbered Article XVII. See minutes of Oct. 17.

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Final Clauses — Agreed to, [illegible] date of Oct. 17.

Protocol — Original draft agreed to. Addition of provision relating to protection whose nations are designated by law as public officials (see minutes of October 6) and provision that treaty to transmit information also not extend to military secrets (see minutes of Oct. 17) agreed to.

Additional Protocol

Preamble Paragraph 1. Agreed to as amended. See minutes of Oct. 10.

Paragraph 1. Agreed to. See minutes of Sept. 25.

Paragraph 2. Agreed to. See minutes of Sept. 25.

Paragraph 3. ~~Subject to further consideration for procedure to be followed in publication.~~ Agreed to. See minutes of Sept. 25 and Oct. 10 and 20.

20
October 24, 1947.

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DIVISION OF
COMMUNICATIONS AND RECORDS
TELEGRAPH BRANCH

DEPARTMENT OF STATE

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OUTGOING TELEGRAM

INFORMATION
COPY

1

Origin: ITP
Info: SS UE C AA EUR LE OCD CIA DCL OFD TRC FC OIE

AMEMBASSY, ROME.
2245

DEPARTMENT OF STATE
Lo/T
NOV 6 - 1947
TREATY BRANCH
OFFICE OF THE LEGAL ADVISER

Control 7164
Oct. 31, 1947
7 p.m.

Ref Embtel 3366 Oct 23 Commercial Treaty.

Art III. Emb authorized include in minutes confirmation that banking covered by MFN rule par 1. Spot sampling 15 states in Martindale-Hubbell Law Digest, 1945, produces following info possibly pertinent Ital inquiry regarding nature of state requirements affecting foreign participation domestic banking corporations. Only relevant requirements noted related to residence or citizenship of incorporators or directors. Sections on Calif., Colo., Ill., La., Mich., and N.Y. silent whether there might be pertinent restrictions. N.J. and West Va. require majority directors be state residents. Conn. requires three-fourths directors be state residents. Ohio requires majority incorporators and three-fourths directors be state residents. Ind. requires majority incorporators be state citizens. In Maryland all incorporators must be Amcitizens and majority directors state residents. In Penna. two-thirds incorporators must be Amcitizens and state residents, and directors must all be Amcitizens and two-thirds state residents. For Mass. trust companies three-fourths directors must be state citizens and residents. In Iowa majority of organizers

savings

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savings banks must be state residents. This info unofficial and seems not altogether satisfactory Emb purposes. For example, not known what constitutes residence or citizenship in various states, or what inference is to be drawn from silence of Martindale-Hubbell Digest. If more extensive search produces better info next few days, Dept will forward same.

Art VII. Dual term QUOTE real and other immovable property UNQUOTE elaborates civil and common law differences in terminology and distinctions in concept. Possible translation clue afforded by 1926 Salvador treaty, Art four, Spanish version QUOTE bienes raices u otros de naturaleza inmueble UNQUOTE. Nevertheless, dual term not essential treaty purposes, and therefore agreeable if desired to delete QUOTE real and other UNQUOTE, thus relying on single adjective QUOTE immovable UNQUOTE, [redacted]

Art VII, par 1. Dept cannot now see way clear to introduce general MFN concerning real property ownership. So long as 1853 Argentine treaty, Art nine, remains in force, such MFN might result in national treatment. Apart from rule on inheritances, traditional treaty policy consistently followed

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followed by Fedgovt with few exceptions has been avoiding interference state prerogatives in land ownership legislation; and Senate has not yet indicated disposition toward approving reversal this policy. Dept records indicate that Itals in abortive 1937 negotiations seemed quite agreeable to omission of general MFN on real property. Dept believes that Art VII as now drafted, plus pars 2 and 3, Art I, provide adequate property rights for treaty purposes. Note that latter contain fairly extensive national and MFN rules. However, Emb at discretion may insert term QUOTE and to the disposition of real property UNQUOTE after QUOTE personal property UNQUOTE sixth line, par 4, Art VII, thus stipulating rule roughly comparable possible limited construction second par, Art 22 treaty 1871, advanced by Emb.

Cleared by C [illegible]

Art XXIV, par 3. Since treaty text itself now completely excepts from MFN treatment advantages accorded City, Vatican, Dept does not readily perceive necessity further understanding thereon in minutes. Purpose Ital suggestion quoted Urtel therefore not apparent even in view last par Embtel 3063 and Dept wonders whether it might be open inter-pretation that Americans would not receive, under national treatment, privileges enjoyed under Lateran Pacts by Ital (as distinct from Vatican) ecclesiastical institutions (example, national treatment re taxation American

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American owned churches under Art IX). Would be desirable for Itals to indicate specifically what provisions in Lateran Pacts not adequately excepted by subpar (D) and from which virtue feared Americans might unwarrantedly benefit by ~~exercise~~ their treaty rights.

Ref Emb A-1071 Oct 14. Text Ital proposal for convention regarding recognition academic degrees and certificates of professional competence goes far beyond anything US Govt can presently conclude. See Deptel 2007 Oct 9, which based on particular inquiries. Perhaps Ital realization impossibility accommodation their proposal would be helped by citing deep opposition many quarters toward extension fed aid for public education and difficulties encountered in establishing fed subsidy scientific research in universities, which demonstrate great delicacy involved in fed action merely suggestive of even potential fed control of most moderate character.

LOVETT
Acting

CP:HWalker:lgm
10-31-47

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